

SENATE BILL 2095

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 5 and Title 68, relative to newborn infants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 5, is amended by adding Sections 2 through 3 as a new part thereto.

SECTION 2. The general assembly finds that:

(1) Alcohol or controlled substances that cause dependence and addiction in the mother can also cause the fetus to become addicted;

(2) At birth, the baby's dependence on alcohol or a controlled substance continues but since the alcohol or controlled substance is no longer available, the baby's central nervous system becomes overstimulated, causing symptoms of withdrawal; and

(3) Neonatal abstinence syndrome, a group of problems a baby experiences when withdrawing from exposure to alcohol or narcotics, is a serious medical and societal problem.

SECTION 3.

(a)

(1) If a physician has reason to believe based on a medical assessment of the mother or an infant that the mother used alcohol or a controlled substance for a nonmedical purpose during the pregnancy and that the infant is suffering from withdrawal from neonatal abstinence syndrome, such physician shall administer to such newborn infant a toxicology test to determine whether there is evidence of prenatal exposure to alcohol or a controlled substance. A physician may use urine or encomium from the infant for the toxicology test.

(2) No hospital or other health care facility shall discharge an infant who is suffering from withdrawal from neonatal abstinence syndrome until such infant has been treated for such syndrome and has reached maximum medical improvement.

(b) The bureau of TennCare and the department of health shall work with physicians to provide opportunities for indigent women who are pregnant to receive treatment for addiction to alcohol or controlled substances. The bureau of TennCare and the department of health shall work with indigent women who are addicted to alcohol or controlled substances and who have recently given birth to provide medical assistance to the infants of such women.

(c) All information, interviews, reports, statements, memoranda and drug or alcohol test results, written or otherwise, received through a drug or alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public or private proceedings, except in accordance with this section.

(d) Information on drug or alcohol test results for tests administered pursuant to this part shall not be released or used in any criminal proceeding against the mother of the child who was subject to the test. Information released contrary to this section is inadmissible as evidence in a criminal proceeding.

(e) Nothing in this section shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of a woman about whom a report of alcohol or drug abuse was made or her child.

(f) The commissioner of health is authorized to adopt rules, using criteria established by the United States department of health and human services as guidelines for modeling the drug and alcohol testing program pursuant to this part, concerning, but not limited to:

(1) Standards for licensing drug and alcohol testing laboratories and suspension and revocation of the licenses;

(2) Body specimens and minimum specimen amounts that are appropriate for drug or alcohol testing;

(3) Methods of analysis and procedures to ensure reliable drug or alcohol testing results, including standards for initial tests and confirmation tests;

(4) Minimum cut-off detection levels for alcohol, each drug or metabolites of the drug for the purposes of determining a positive test result;

(5) Chain-of-custody procedures to ensure proper identification, labeling and handling of specimens tested; and

(6) Retention, storage and transportation procedures to ensure reliable results on confirmation tests and retests.

(g) If the department levies a fee or charge for the cost of testing, it shall use the same billing and collection methods normally used by independent private laboratories. Any fee shall be waived for patients who are unable to pay.

(h) A physician who determines, pursuant to this part, that a newborn infant is suffering from neonatal abstinence syndrome shall notify the department of children's services. The department shall monitor such child to ensure the child is getting adequate and appropriate medical care for any issues arising from the child's mother's abuse of alcohol or controlled substances.

(i) A health care provider who makes a report of alcohol or drug abuse as required by subsection (h) shall not be liable in any civil or criminal action that is based solely upon such report.

(j) Laboratories, medical review officers, employee assistance programs, drug or alcohol rehabilitation programs and their agents who receive or have access to information concerning drug or alcohol test results shall keep all information confidential. Release of the information under any other circumstance is authorized solely pursuant to a written consent

form signed voluntarily by the parent of the infant who is tested, unless the release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section. The consent form must contain, at a minimum:

- (1) The name of the person who is authorized to obtain the information;
- (2) The purpose of the disclosure;
- (3) The precise information to be disclosed;
- (4) The duration of the consent; and
- (5) The signature of the person authorizing release of the information.

(k) Prior to acting on the proposed rules to implement this chapter, the commissioner shall submit the proposed rules to the health and human resources committee of the house of representatives and the senate general welfare health and human resources committee for their review and comment. The committees shall have forty-five (45) days to review the proposed rules and transmit any comment it may have to the commissioner.

SECTION 4. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2010, the public welfare requiring it.